

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

OCTAVIO GONZALEZ,

Petitioner,

v.

CAUSE NO. 3:24-CV-689-SJF

WARDEN,

Respondent.

OPINION AND ORDER

Octavio Gonzalez, a prisoner without a lawyer, filed a habeas petition challenging the disciplinary decision (ISR-23-10-1225) at the Pendleton Correctional Facility in which a disciplinary hearing officer (DHO) found him guilty of possessing an electronic device in violation of Indiana Department of Correction Offense 207. According to the petition, he was sanctioned with a loss of one hundred eighty days earned credit time and a demotion in credit class.

In the pending motion to dismiss, the Warden argues that this case is moot because correctional staff did not sanction Gonzalez with the loss of earned credit time, a demotion in credit class, or in any other manner that affected the duration of his sentence in connection with this disciplinary hearing. The Warden supports this argument with the hearing report and printouts from the departmental inmate database. ECF 1-1 at 5-7, ECF 10-3. Consequently, the court finds that the claims raised in the petition are moot. *See Hadley v. Holmes*, 341 F.3d 661, 664 (7th Cir. 2003) (prisoner can challenge prison disciplinary determination in habeas proceeding only when it

resulted in a sanction that lengthened the duration of his confinement). Because the claims in the petition are moot, the court grants the motion and dismisses the habeas petition.

If Gonzalez wants to appeal this decision, he does not need a certificate of appealability because he is challenging a prison disciplinary proceeding. *See Evans v. Circuit Court*, 569 F.3d 665, 666 (7th Cir. 2009). However, he may not proceed in forma pauperis on appeal because the court finds that an appeal pursuant to 28 U.S.C. § 1915(a)(3) that an appeal in this case could not be taken in good faith.

For these reasons, the court:

- (1) GRANTS the motion to dismiss (ECF 10);
- (2) DIRECTS the clerk to enter judgment and to close this case; and
- (3) DENIES Octavio Gonzalez leave to proceed in forma pauperis on appeal.

SO ORDERED on February 20, 2025.

s/Scott J. Frankel

Scott J. Frankel
United States Magistrate Judge